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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,567	09/29/2003	Takeharu Arakawa	B-5242 621286-7	3843

36716 7590 12/27/2006
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EXAMINER

JOSEPH, TONYA S

ART UNIT	PAPER NUMBER
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3628

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/27/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/674,567

Applicant(s)

ARAKAWA, TAKEHARU

Examiner

Tonya Joseph

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09/29/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 07/10/2006 and 08/11/2006.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Priority

1. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) is acknowledged.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claim 13 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

4. Claim 13 is directed to computer software, embodied in a propagated carrier wave. Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, per se, and as such are nonstatutory natural phenomena. O'Reilly, 56 U.S. (15 How.) at 112-14. Moreover, it does not appear that a claim reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in §101.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 9 and 12-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Aarnio et al. WO 01/43416 A2.

7. As per Claim 9, Aarnio teaches said communication device comprising: **a calculation device which calculates the fee** (see pg. 2 lines 20-22); **and a charging processing device which performs processing for charging the seller the calculated fee** (see pg. 2 lines 20-25).

8. As per Claim 12, Aarnio teaches said charging method comprising: **a calculation process which calculates the fee** (see pg. 3 lines 4-11 and pg. 4 lines 15-23); **and a charging processing device which performs processing for charging the seller the calculated fee** (see pg. 2 lines 20-25).

9. As per Claim 13, Aarnio teaches **a calculation process which calculates the fee** (see pg. 3 lines 4-11 and pg. 4 lines 15-23); **and a charging processing device which performs processing for charging the seller the calculated fee** (see pg. 2 lines 20-25).

10. As per Claim 14, Aarnio teaches said charging control program causing the computer to function as: **a calculation device which calculates the fee** (see pg. 2 lines 20-23); **and a charging processing device which performs processing for charging the seller the calculated fee** (see pg. 2 lines 20-25).

11. Claims 10 and 11 are rejected under 35 U.S.C. 102(b) as being unpatentable over Amadon U.S. Patent No. 5,673,306.

12. As per Claim 10, Amadon teaches said terminal device comprising: **a restricting device which restricts generation of the fee based upon conditions set in advance**

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(see Col. 16 lines 12-19, Examiner is interpreting a customer needing to re-register when air-time limits are exceeded as a condition set in advance).

13. As per Claim 11, Amadon teaches said seller's apparatus comprises **a payment acceptance device which performs processing for accepting payment of a fixed amount of fee set in advance from a purchaser of said terminal apparatus** (see Col. 7 lines 36-39, Examiner is interpreting the billing information received from the Collector as a fixed amount of fee).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 1-2, 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amadon U.S. Patent No. 5,673,306 in view of Monteleone U.S. Pre-Grant Publication No. US 20020046130 A1.

16. As per Claim 1, Amadon teaches said charging system comprising **a calculation device which calculates the fee** (see Col. 5 lines 66-67 and Col. 6 lines 1-4) and Amadon does not explicitly teach **a charging processing device which performs processing for charging the seller the calculated fee**. Monteleone teaches the supplier is able to immediately, via e-mail or other suitable communication means, bill the seller for the cost of the product and the shipping charge (see para. 38 lines 3-10), it would have been prima facie obvious to one of ordinary skill in the art at the time of

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invention to modify the system of Amadon to include charging processing device which performs processing for charging the seller the calculated fee in order to reduce the overall billing cycle time, as taught in Amadon para. 38 lines 15-18).

17. As per Claim 2, Amadon in view of Monteleone teaches the system of claim 1 as described above. Amadon further teaches **a restricting device which restricts generation of the fee based upon conditions set in advance** (see Col. 16 lines 12-19, Examiner is interpreting a customer needing to re-register when air-time limits are exceeded as a condition set in advance).

18. As per Claim 6, Amadon in view of Monteleone teaches the system of claim 1 as described above. Amadon further teaches **wherein said seller's apparatus comprises payment acceptance device which performs processing for accepting payment of a fixed amount of fee set in advance from a purchaser of said terminal apparatus** (see Col. 7 lines 36-39, Examiner is interpreting the information received from the Collector as a fixed amount of fee).

19. As per Claim 8, Amadon in view of Monteleone teaches the system of claim 1 as described above. Amadon further teaches **wherein at least one of said communication apparatus, said terminal apparatus, and said seller's apparatus provide at least one of said calculation device and said charging device** (see Col. 5 lines 38-55, 66-67 and Col. 6 lines 1-4).

20. Claim 3, 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Amadon U.S. Patent No. 5,673,306 in view of Monteleone U.S. Pre-Grant Publication No. US 20020046130 A1 in further view of Asaoka et al. U.S. Patent No. 6,349,203 B1.

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21. As per Claim 3, Amadon in view of Monteleone teaches the system of claim 2 as described above. Amadon in view of Monteleone does not explicitly ***teach wherein said restricting device prohibits transmitting information identical with the information being transmitted to said terminal apparatus***. Asaoka teaches, with this arrangement, the moving body terminal device can receive new menu content from the information center and update the menu screen held therein. Therefore, it is always possible to update the menu held in the moving terminal device. Particularly, since only the data on the difference between the menu held in the device and the new menu held in the center is transmitted, a communication amount can be reduced (see Col. 2 lines 9-15) It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the system of Amadon and Monteleone to include a restricting device that prohibits transmitting information identical with the information being transmitted to said terminal apparatus in order to maintain relatively low communication costs to update a menu, as taught in Asaoka Col. 2 lines 16-17.

22. As per Claim 5, Amadon in view of Monteleone in further view of Asaoka teaches the system of claim 3 as described above. Amadon further teaches ***a second comparing device which compares a valid region indicated by the transmitted regional information and a present position of said terminal apparatus*** (see Col. 19 lines 1-15) Amadon does not explicitly teach ***a second prohibiting device which prohibits execution of the communication when the present position is within the valid region***. Asoaka teaches, particularly, since only the data on the difference between the menu held in the device and the new menu held in the center is

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transmitted, a communication amount can be reduced; In response to the "OK" message for the log-in, the device 30 sends the prepared search request (e.g., a request for "news" and information about "weather" and "restaurant near the present location") to the center 10. Based on the received request, the center 10 prepares and sends a reply (e.g., latest news, **weather forecast, or a list of restaurants around the present position**)(see Col. 2 lines 13-16 and Col. 6 lines 8-14, Examiner is interpreting the present position as a valid region). Examiner is further interpreting a list of restaurants around the present location being transmitted to a system based on if the information in the system is different than that of the supplying information center as the prohibition of communication when the present position is within the valid region. It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the system of Amadon and Monteleone to include a second comparing device which compares a valid region indicated by the transmitted regional information and a present position of said terminal apparatus and a second prohibiting device which prohibits execution of the communication when the present position is within the valid region in order to maintain relatively low communication costs to update a menu, as taught in Asaoka Col. 2 lines 16-17.

23. As per Claim 7, Amadon in view of Monteleone in further view of Asaoka teaches the system of claim 3 as described above. Amadon further teaches ***said communication apparatus further comprises a relay transmission device which transmits the information, which is sent from one and more of information transmission apparatuses, to said terminal apparatus*** (see Col. 5 lines 9-55).

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24. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Amadon U.S. Patent No. 5,673,306 in view of Monteleone U.S. Pre-Grant Publication No. US 20020046130 A1 in further view of Asaoka et al. U.S. Patent No. 6,349,203 B1 and Tsuyama Pre-Grant Publication No. 20050102397.

25. As per Claim 4, Amadon in view of Monteleone in further view of Asaoka teaches the system of claim 3 as described above. Amadon does not explicitly teach **a first comparing device which compares the expiration date indicated by the transmitted expiration date information and a present time**. Tsuyama teaches the "expiration date" indicates, in the information image utilizing system, a term of validity of the copy information image in the information image utilizing system 100. When the expiration date has passed, the copy information image is automatically deleted (see para. 106 lines 1-5, Examiner is interpreting the passing of a date as a comparison made to a present time) Amadon does not explicitly teach and **a first prohibiting device which prohibits execution of the communication when time corresponding to the expiration date is later than the present time**. Tsuyama teaches also, it is possible to prohibit manipulation of the information image after the passage of the expiration date, nullify a report of a manipulation log of the information image to the managing server after the passage of the expiration date(see para. 106 lines 5-10, Examiner is interpreting the nullifying of a report after the passage of an expiration date as prohibiting execution when time corresponding to the expiration date is later than the present time). It would have been prima facie obvious to one of ordinary skill in the art at the time of invention to modify the system of Amadon, Monteleone, Asaoka and

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Tsuyama to include a first comparing device which compares the expiration date indicated by the transmitted expiration date information and a present time and a first prohibiting device which prohibits execution of the communication when time corresponding to the expiration date is later than the present time in order to ensure the validity of information in a system, as taught in Tsuyama para. 106 lines 1-2.

Conclusion

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hartikainen et al. WO 02/45401 A1 discloses a system for charging for a set of users subscribed to a communication network transmitted from a user terminal. Deckers et al. EP 1 049 314 A1 discloses a method for a warrantor to be charged for the use of a service by means of a communication network.


27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tonya Joseph whose telephone number is 571-270-1361. The examiner can normally be reached on Mon-Fri 7:30am-5:00pm First Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Nolan can be reached on 571 272 0847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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